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FM AMEMBASSY SOFIA

TO RUEHC/SECSTATE WASHDC IMMEDIATE 4648

INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY

RUCPDOC/DEPT OF COMMERCE WASHINGTON DC PRIORITY

RHEBAAA/DEPT OF ENERGY WASHINGTON DC PRIORITY

RHEHNSC/NSC WASHINGTON DC PRIORITY

RUEAIIA/CIA WASHINGTON DC PRIORITY

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E.O. 12958: DECL: 01/07/2018

TAGS: [ECON](#) [ENRG](#) [PGOV](#) [BU](#)

SUBJECT: BULGARIANS HIRE LEGAL COUNSEL FOR SOUTH STREAM

REF: A. A) 07 SOFIA 1394

[1B.](#) B) 07 SOFIA 1339 AND PREVIOUS

Classified By: Charge Alex Karagiannis for reasons 1.4 (b) and (d)

[11.](#) (C) Bulgargaz, the Bulgarian state-owned energy company, has hired the U.S. law firm Paul Hastings to advise the Bulgarian side as it negotiates an intergovernmental agreement with the Russians on the South Stream pipeline. Paul Hastings partner Mark Lewis confirmed to us January 4 that his company had been brought on, initially for one month, to help the Bulgarians draw up a document that could be signed during the January 18 visit of President Putin. Lewis said the Russian-proposed IGA is, as suspected, highly slanted in Russia's favor. Lewis' firm is re-writing the draft IGA to include language that protects Bulgarian interests on several key points: Bulgarian majority ownership of the pipeline on Bulgarian territory (the Russians have proposed that Russia own 51 percent); the Bulgarian right to participate in the under-sea portion of the pipeline, if it so desires; the right to use excess capacity of the pipeline; and the right to collect transit fees (the Russians are arguing that under EU law, the GOB cannot collect such fees.)

Most importantly, Paul Hastings is recommending that Bulgaria insist that any bilateral IGA on South Stream be conditional on a later, multilateral IGA that Russia would have to negotiate with all future participants in the project. This multilateral IGA would be the "real" agreement, while the current IGA, if it is actually signed, would be more general, and political, in nature. Our energy contacts tell us that they are now less certain that a document on South Stream will actually be signed during Putin's visit, although this is still the goal.

[12.](#) (C) Comment: Now that the Bulgarians have taken our advice to hire competent legal counsel on South Stream (reflets), we must make certain they -- specifically Bulgargaz -- take this advice. The circumstances surrounding the hiring of Paul Hastings are anything but transparent. Lewis said he received an urgent call from a Bulgargaz contact on December 20 asking Paul Hastings to take on the project. This contact told Lewis Bulgargaz head Lubomir Denchev was "instructed" by the Ministry of Economy and Energy to hire legal counsel in early December, but had not done so because "he forgot." Bulgaria's South Stream lead negotiator, Deputy Minister of Economy and Energy Galina Tosheva, learned of the hiring of Paul Hastings from the Embassy, not from other government officials. We arranged Tosheva's first meeting with the attorneys on January 4. After his initial meetings with Bulgargaz and MinEnergy, Lewis said that while these two entities are approaching the substance of the South Stream IGA from relatively similar standpoints, it is clear that Bulgargaz head Denchev is

decidedly more pro-Russian. Lewis confirmed that relations between the Ministry of Economy and Energy and Bulgargaz are not good and Paul Hastings will have to strike a delicate balance between advising its official client (Bulgargaz) and feeding information to the Ministry of Economy and Energy (Tosheva). The next round of Russian-Bulgarian negotiations is due to start January 9. With Putin due to arrive January 17, we'll be pulsing our contacts daily on how the Russians react to Bulgaria's new proposals -- and stiffer backbone.  
End Comment.

Karagiannis